

REMARKS

Claims 1-4 and 14-17 are pending in this application.

Claim 1 is currently amended to incorporate the limitations of the chain length of the fatty acid glycerides contained in the edible substances. Support for this amendment is located in paragraph [0020] of US 2006/0051478, the pre-grant publication of the instant invention.

Claim 17 is currently amended to delete the non-elected subject matter

No new matter is added.

Claims 1-4 and 14-17 are presented for reconsideration.

Restriction Requirement

The Examiner has issued a restriction requirement under PCT Rule 13.1 and 13.2 stating that the antioxidants of claim 17 are separate and distinct classes of antioxidants. Responsive thereto, butylated hydroxytoluene is hereby elected without traverse. Accordingly, the non-elected subject matter of claim 17 is deleted.

The present restriction requirement is successfully addressed.

Claim Rejection – 35 USC 103(a)

Claims 1-4 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nesvadba (US 5,814,692) in view of Griffith et al. (US 2,768,084) and Codex Standard 19 (Codex Standard for Edible Fats and Oils not covered by Individual Standards, 1999, Codex Alimentarius).

Nesvadba states that the compounds are suitable for stabilizing organic materials against oxidative degradation. Some of these materials are naturally occurring organic materials (column 28, item 29). In the Working Examples of Nesvadba, it is taught that these compounds are useful for the stabilization of polyethylene and/or polypropylene. Nesvadba is totally silent with regard to what type of food stuff or food stuffs containing fatty acid glycerides, edible fats or fatty oils that may be

stabilized. Additionally, Nesvadba is totally silent as to the specific chain length of fatty acid glycerides.

Griffith et al teaches a limited number of antioxidants in food stuffs. The antioxidants that Griffith et al. teach include: butylated hydroxyanisole (BHA), tocopherols, antioxidant acids (citric, tartaric or phosphoric acids), and gallic acid esters. Griffith does not teach butylated hydroxytoluene. Additionally, Griffith et al. is totally silent as to the specific chain length of fatty acid glycerides contained in the food stuffs.

Codex Standard 19 teaches antioxidants suitable for use in edible fats and oils. BHT, BHA, gallates and tocopherols are listed. However, Codex Standard 19 is totally silent as to the specific carbon chain length of the fatty acid glycerides contained in the food stuffs.

The elements of the instant amended claims can not be derived from US 5,814,692, Codex Standard 19 and US 2,768,084, either alone or collectively; hence the limitations are not met. Additionally, one skilled in the art would not have applied the combined teachings of the cited art to a food stuff containing a fatty acid glycerides of a specific chain length, i.e carbon chains from 12 carbon atoms to about 24 carbon atoms for each ester site. Therefore, the present invention is not obvious to the skilled artisan.


In light of this discussion, the Applicants submit that the 35 USC 103(a) rejection is addressed and is overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejection.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

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